

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 96015**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-110-96**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

### State Environmental Commission

Classification [ ] Proposed [ ] Adopted By Agency [xx] Temporary [ ] Emergency [ ]

**Brief description of action:** **Petition 96015 (LCB File No. R-110-96)** is a permanent regulation repealing NAC 445A.001 to 445A.026, the Protection of Lake Tahoe. Repealed citations include definitions, permitting requirements for construction of residences, commercial or public facilities. In addition, requirements for subdivisions, alterations of property, community water supply and sewage disposal, and marine toilets are repealed. The regulations repealed have been supplanted by those ordinances adopted by the Tahoe Regional Planning Agency.

**Authority citation other than 233B:** NRS 445A.180

**Notice date:** March 10, March 16 and March 25, 1999

**Hearing date:** April 9, 1999

**Date of Adoption of Agency:** April 9, 1999

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PERMANENT PETITION 96015 (LCB FILE R-110-96)  
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445A. This temporary regulation deals with amendments to the water pollution control program.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

**Petition 96015 (LCB R-110-96)**, was noticed three (3) times: March 10, March 16 and March 25, 1999 as a temporary regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. Regulatory workshops were held on November 6, 1998 in Carson City and November 9, 1998 in Elko. The regulation was adopted on April 9, 1999 by the State Environmental Commission. No testimony was received regarding this regulation. One written comment was received for this regulation from the Tahoe Regional Planning Agency (exhibit 5) supporting the proposed regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**2. The number persons who:**

(a)	Attended each hearing;	70
(b)	Testified at each hearing:	0
(c)	Submitted to the agency written comments:	1

**3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices. No oral testimony was received that opposed or supported the regulation. No written comments supporting or opposing the regulation were received from businesses regarding this regulation. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted by the State Environmental Commission on April 9, 1999 with no amendment proposed for the regulation.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

The proposed temporary regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulations do not overlap or duplicate any regulations of another state or local governmental agency. Regulations adopted by the Tahoe Regional Planning Agency supplant the repealed regulations.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The regulations are no more stringent than federal regulations.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

There will be no additional fees, nor will there be an increase in fees associated with this regulation.

**END OF FILING STATEMENT FOR 96015**

**ADOPTED PERMANENT REGULATION OF THE  
NEVADA STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R110-96**

EXPLANATION: Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AUTHORITY: NRS 445A.180

**Section 1.** NAC 445A.001, 445A.002, 445A.003, 445A.004, 445A.005, 445A.006, 445A.007, 445A.008, 445A.009, 445A.010, 445A.011, 445A.012, 445A.013, 445A.014, 445A.015, 445A.016, 445A.017, 445A.018, 445A.019, 445A.020, 445A.021, 445A.022, 445A.023, 445A.024, 445A.025, and 445A.026 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**445A.001 Definitions.** As used in NAC 445A.001 to 445A.026, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445A.002 to 445A.009, inclusive, have the meanings ascribed to them in those sections.

**445A.002 "Breakwater" defined.** "Breakwater" includes fixed and floating structures to break up, direct or diminish the forces of waves or currents.

**445A.003 "Commercial construction" defined.** "Commercial construction" means a building or vehicle provided for a business operation or housing a service. It includes trailers and trailer parks.

**445A.004 "Division" defined.** "Division" means the health division of the department of human resources.

**445A.005 "Fills" defined.** "Fills" means deposits of rock, soil, gravel, sand or other clean material placed by man.

**445A.006 "Lake Tahoe Watershed" defined.** "Lake Tahoe Watershed" means all of that area draining in the Lake Tahoe Basin and Lake Tahoe in Nevada.

**445A.007 "Pier" defined.** "Pier" includes all fixed and floating piers, walkways and gangways.

**445A.008 "Shoreline protection" defined.** "Shoreline protection" includes riprap, masonry, concrete, metal, wood or other structures placed on land or along the shoreline or in the water as protection against waves or streams or other forces of nature or the works of

man.

**445A.009 "Single-family residence" defined.** "Single-family residence" means a building or a vehicle for a single family on a single piece of land and served by an individual sewage system.

**445A.010 Construction permit required.**

1. A written permit must be obtained from the division before any work is commenced for construction of any building, water, sewerage or drainage system within the Lake Tahoe Watershed or for any shoreline or other alteration or construction below the high water elevation (6229.1 foot contour) of Lake Tahoe. The permit is in addition to those required by any other governmental agency.

2. The permit issued by the division does not give any property rights either in real estate or materials, water rights, nor can rights be acquired or any exclusive privileges and it does not authorize any injury of private or public property or invasion of private or public rights or any infringement of federal, state or local laws or regulations, nor does it obviate the necessity of obtaining federal and local consent of the work authorized.

**445A.011 Permits for construction of residences.** All construction within the Lake Tahoe Watershed, as provided in NRS 445.080, other than on land subdivided prior to the enactment of NRS 445.080 to 445.120, inclusive, is subject to the following provisions:

1. Subdivision plans must not be approved unless there is a provision for service to an approved sewage collection, treatment and effluent disposal system and a surface drainage system, all with capacity to accommodate the volumes anticipated without contamination of a water supply or violation of NAC 445A.070 to 445A.340, inclusive.

2. The permit requirement for a private dwelling is connection to an approved collection, treatment and effluent disposal system. A permit can be granted for a single-family dwelling on an isolated lot larger than one-fourth of an acre not in a subdivision but served by an approved water system. This lot must be suitable for effluent disposal from an individual sewage disposal system.

3. A temporary permit can be issued for a private dwelling to be temporarily served with an individual disposal system. The request for a temporary permit must include a provision to obtain service from an approved system when such service is available and there is a plan for such a community system.

4. On land without a community water supply or a community sewer system, available pertinent land having a net area of not less than 1 acre (43,560 sq. ft.) is required for the construction of single-family dwellings.

5. On land served by a community water supply but without community sewage disposal, available pertinent land having a net area of not less than one-fourth of an acre (10,890 sq. ft.) is required for the construction of a single-family dwelling. This is a minimum requirement and will be permitted only under favorable geological and topographical conditions.

6. There must be no individual dwellings, living quarters or commercial establishments constructed at an elevation lower than 6229.1 feet, except a marina, pier or services related to a boat servicing operation.

**445A.012 Permits for commercial or public construction.** Requests for construction permits for commercial or public facilities are considered individually. No permit will be granted for such construction unless there is adequate service available to an approved collection system, treatment plant and effluent disposal.

**445A.013 Request for permit: Information required.** The request for a permit must be accompanied by an application providing the following information:

1. The name and address of the owner or that of the person in control of the land to be built upon.

2. When the application is for a marina, a pier or for any construction or alteration below the 6229.1 foot elevation, the name or names and mailing addresses of owners of adjoining shoreline lots for a distance of 300 feet in both directions from the proposed construction.

3. A map or sketch showing owners' names and the parcels controlled must be submitted, the name of the subdivision, the lot and block designations as recorded with the county recorder and accurate metes and bounds descriptions if the property lies outside a recorded subdivision. Principal land features, landmarks and important reference objects should be included to facilitate field orientation.

4. The name and address of the builder, contractor or person doing the work.

5. A scaled plan view of the building and lot must be submitted with the following details and pertinent data:

(a) The number of bedrooms in private dwellings or the number of persons to be accommodated or served by the construction of commercial buildings.

(b) The existing or proposed location of the private water supply, if any, on the property to be developed; the water supply and any sewerage or waste systems of the adjoining properties and the location of the nearest public water supply or sewage disposal system.

(c) Evidence of an application to the division of water resources to appropriate water when required.

(d) The direction of ground slope and soil characteristics; the location of physical features such as trees, rock formations or marshy areas or other hindrances to construction of a satisfactory sewage disposal system, water supply development or surface drainage facility must be indicated.

(e) If the application is for shoreline alteration, construction on land within 25 feet of the shoreline or below the 6229.1-foot elevation, an accurate survey of the property must include the underwater topography for a distance of 100 feet from the shoreline or to the 6219-foot elevation. The location of rocks or other physical features to be changed must be shown.

(f) The applicant shall submit a statement that the facility will be maintained in good repair or altered or removed if it becomes a safety or navigation hazard or has an adverse effect upon the water quality or the aquatic environment.

(g) The origin, depository or removal of any material within 25 feet horizontally of the 6229.1-foot elevation on shore, a shoreline alteration or any alteration lower than the 6229.1-foot contour of Lake Tahoe, with a determination that the operation is in compliance with NAC 445A.070 to 445A.340, inclusive.

(h) The applicant must show that the construction is structurally sound and in compliance with pertinent codes and regulations.

(i) The applicant must demonstrate authorized acquisition of materials lying outside the boundaries of property ownership.

6. Specifications for the construction or modification of a water supply or sewerage system must accompany the plans or the plans may be detailed and show materials and acceptable assembly procedures.

**445A.014 Objections to permit.** On receiving an objection to a permit, the permit must be withheld and the procedures for appeals to the board in chapter 439 of NAC apply.

**445A.015 Expiration, renewal of permit.** Permits are valid for 1 year unless otherwise specified in the permit. Application may be made for a renewal of the permit.

**445A.016 Inspection of the site.** An inspection of the proposed construction site may be necessary and consequently may cause some delay in processing the application for a permit.

**445A.017 Subdivision plans.**

1. Plans for subdivisions in the Lake Tahoe Watershed must be submitted to the division for approval before the subdivision plans are recorded or presented for final approval by the county commissioners. The subdivision plans must comply with regulations authorized by NRS 445.080 to 445.120, inclusive. Approval of subdivision plans does not imply approval of individual lots found upon examination to be unsuitable for the proposed construction.

2. After October 26, 1967, subdivision plans must provide for a community sewer collection system, a treatment plant and effluent disposal conforming to NAC 445A.070 to 445A.340, inclusive, and interstate water quality standards.

3. Plans must include surface drainage to protect soil surfaces and conform to chapter 70 of the Uniform Building Code, except the provision relating to fees.

**445A.018 Land subdivided prior to 1949.** Land lying within the Lake Tahoe Watershed area of Nevada that has been subdivided prior to the enactment of NRS 445.080 to 445.120, inclusive, will be examined upon request. Wherever a satisfactory plan for sewage disposal cannot be devised, a permit for construction will not be issued.

**445A.019 Shoreline and alteration appurtenances.**

1. The required permit for a pier, dock, marina, fill, removal of sand or gravel or for a shoreline alteration will not be granted if the proposal:

- (a) Adversely affects the aquatic environment;
- (b) Adversely affects water quality;
- (c) Results in deterioration or degeneration of the physical environment;
- (d) Impairs or interferes with the natural circulation of water;
- (e) Interferes with beneficial uses of the public lands and waters;



- (f) Is a navigation or safety hazard;
- (g) Is based on false information; or
- (h) Would or does constitute a device to increase the area of waterfront lands by encroaching upon the surface area of Lake Tahoe below the 6229.1 -foot contour line.

2. The application for a permit must be submitted to the local agency of jurisdiction for their information and approval.

3. Piers, marinas or other devices must not extend into Lake Tahoe a greater distance than is necessary to develop a water depth of 4 feet or a length of pier longer than necessary to dock or service a boat.

4. A breakwater must:

- (a) Not support any building; and

- (b) Be constructed only of clean insoluble materials, without fines, clays or other contaminants or pollutants.

**445A.020 Minor repairs, alterations and protection of property.** Consideration will be given by the division to approval of:

1. Minor shoreline and other alterations to protect property from erosion and damage or the removal or correction of a safety or navigational hazard.

2. The repair of an existing structure, if such structure complies with NAC 445A.001 to 445A.026, inclusive.

3. The minor rearranging or removal of rocks offshore from an owner's property, when in the public interest, water quality will be maintained or improved and the activity will not result in a harmful alteration of the aquatic environment.

**445A.021 Reference guides for construction.** The United States Department of Health, Education and Welfare, Public Health Service Publication No. 526, "Manual of Septic Tank Practices," and the division's publication entitled "Individual Sewage Disposal Systems," and amendments or modification of the above publications are the guide and a part of NAC 445A.001 to 445A.026, inclusive, in considering requests for permits to construct sewage disposal systems and in making inspection of the completed installation. Construction of sewage disposal systems must be in accord with these publications. Data on soil percolation tests and soil characteristics available to the division and actual percolation tests and excavations made by the owner on the properties in question will be used to determine the feasibility of sewage disposal.

**445A.022 Community water supply and sewage disposal.**

1. Plans and specifications for public or community water supply and sewage disposal systems to serve communities or subdivisions in the Lake Tahoe Watershed must conform to NAC 445A.()70 to 445A.340, inclusive, and any other pertinent laws and regulations.

2. The plans and specifications must be presented to the division of environmental protection of the department of human resources for written approval prior to any construction or installation.

**445A.023 Approval of installation of water supply and sewage disposal systems.**

No structure or construction requiring a permit under NAC 445A.001 to 445A.026, inclusive, may be occupied or considered completed until the installation of the water supply and the sewage disposal system has been approved in writing by a representative of the division.

**445A.024 Prohibited discharges.**

1. The discharge of sewage, sewage effluent, trash, debris or wastes of any kind, liquid or solid, into the waters of Lake Tahoe, including wastes from boats, watercraft and boat toilets is prohibited.

2. The occupants or owners of any structure utilizing individual sewage disposal systems after December 31, 1972, must provide for the abandonment of the leaching field or leaching pit of such system and for the sealing of the septic tanks to provide a watertight system for containment of all sewage and sewage effluents. The contents of the watertight system must be disposed of in an approved manner outside the Lake Tahoe Basin. The only exception to this section is a structure within the boundaries of a district where sewage collection systems are under construction and hookup will be completed within 6 months after completion of the system.

3. Upon application to the state board of health, a variance may be granted from this section for structures in those areas where planning for sewer facilities has commenced. The application must be made by the appropriate entity responsible for the planning and construction of sewer facilities. The variance may be granted on terms, conditions and restrictions determined by the board if the applicant demonstrates that all necessary steps are being taken to ensure that, at the earliest possible time, a sewer export system will be completed.

**445A.025 Marine toilets.**

1. Boats with marine toilets are to be equipped with a comminutor, a holding tank of adequate capacity, a means of disinfecting waste and a capped discharge opening for suction removal from the tank located above or in the boat deck or at such other elevation as will preclude discharge except by an onshore device discharging to an approved sewage system. The disinfecting device and comminutor must operate automatically as a unit with each use of the toilet.

2. Alternate chemical treatment, incineration systems and properly serviced portable units will be considered for approval.

3. Marine toilets without approved treatment are to be sealed to prevent being used. Temporary marine toilet use can be approved when wastes can be collected and disposed of in an approved manner.

A. Any pier, dock or marina renting or providing service to boats must provide approved garbage, trash and waste collection, including sewage disposal from boats.

**445A.026 Variances.**

1. A variance from the provisions of NAC 445A.001 to 445A.026, inclusive, may be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the provisions of these sections would deprive such property of privileges enjoyed by other property in the vicinity and under identical restrictions.

2. A variance may be permanent or for a term period.

3. A variance may be granted only by the state board of health and upon a finding that the variance would promote the public health, safety and welfare.

END OF LCB R110-96 (Petition 96015)